

1 On March 13, 2015, defendant moved for reconsideration of the
2 court's February 25, 2015, order. On April 10, 2015, the court
3 denied defendant's motion and clarified its prior orders regarding
4 the scope of the waiver of the attorney-client privilege.

5 Meanwhile, on March 19, 2015, Boetsch's affidavit had been
6 filed along with the government's response to defendant's petition.

7 On April 24, 2015, defendant filed a motion for an order
8 certifying an interlocutory appeal. The court denied the motion in
9 an order dated May 11, 2015. In its order, the court noted that if
10 "defendant believes certain lines of the affidavit present
11 information outside the scope of responding to matters present in
12 defendant's § 2255 motion, he is permitted to file a motion to
13 strike the offending sections under FRCP 12(f)." (Doc. #72 at 5
14 n.2).

15 On May 27, 2015, defendant filed his application to strike
16 Boetsch's affidavit.

17 Defendant's motion continues to assert arguments related to
18 the waiver of privilege that he asserted in his various earlier
19 pleadings. The court has already rejected those arguments by way
20 of its orders of January 20, 2015, April 10, 2015, and May 11,
21 2015.

22 Paragraph three of defendant's application objects to the fact
23 the affidavit was provided directly to government counsel.

24 Defendant argues that he should have been able to look at it first
25 so he could amend or modify his ineffective assistance of counsel
26 claims in order to preserve his attorney-client privilege.

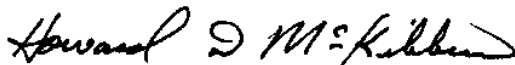
27 Defendant cites no authority for the proposition that he should
28 have had first glance at the affidavit. However, should defendant

1 wish to modify or amend his petition in order to preserve his
2 privilege in whole or in part, he may file an amended petition or
3 on or before November 17, 2015.

4 Paragraph four of defendant's application asserts that
5 Boetsch's affidavit is overly broad but identifies only a few
6 specific statements. It appears, however, that defendant is
7 objecting to far more of the affidavit than the few specific
8 sentences he cites. The court cannot divine what lines and/or
9 paragraphs of the affidavit defendant believes correspond to his
10 broad objection. Accordingly, defendant is hereby granted leave to
11 file a supplement to his motion to strike that identifies each line
12 or paragraph that he believes is beyond the permissible scope of
13 the waiver of his privilege. The supplement shall identify all
14 such lines or paragraphs with a citation to the page and line
15 number of the statement(s). Defendant shall file his supplement on
16 or before November 17, 2015. The government shall file any
17 response by December 1, 2015, and defendant shall file any reply by
18 December 11, 2015. The court will consider defendant's application
19 to strike only as to those statements that are identified by a page
20 and line number citation contained in a timely filed supplement.
21 Should defendant fail to file a supplement, the court will consider
22 the application to strike only as to those specific statements
23 identified in the original application.

24 IT IS SO ORDERED.

25 DATED: This 16th day of October, 2015.

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28 UNITED STATES DISTRICT JUDGE